

1058
78
4
by 2

BULLETIN OF THE DEPARTMENTS OF HISTORY AND
POLITICAL AND ECONOMIC SCIENCE IN QUEEN'S
UNIVERSITY, KINGSTON, ONTARIO, CANADA.

NO. 28, JULY, 1918

SIR GEORGE ARTHUR AND HIS ADMIN-
ISTRATION OF UPPER CANADA.

BY
WALTER SAGE

The Jackson Press, Kingston

BULLETIN OF THE DEPARTMENTS OF HISTORY AND
POLITICAL AND ECONOMIC SCIENCE IN QUEEN'S
UNIVERSITY, KINGSTON, ONTARIO, CANADA.

No. 1, The Colonial Policy of Chatham, by W. L. Grant.

No. 2, Canada and the Most Favored Nation Treaties, by O. D. Skelton.

No. 3. The Status of Women in New England and New France, by James Douglas.

No. 4, Sir Charles Bagot: An Incident in Canadian Parliamentary History, by J. L. Morison.

No. 5, Canadian Bank Inspection, by W. W. Swanson.

No. 6, Should Canadian Cities Adopt Commission Government, by William Bennett Munro.

No. 7, An Early Canadian Impeachment, by D. A. McArthur.

No. 8, A Puritan at the Court of Louis XIV, by W. L. Grant.

No. 9, British Supremacy and Canadian Autonomy: An Examination of Early Victorian Opinion Concerning Canadian Self-government, by J. L. Morison.

No. 10, The Problem of Agricultural Credit in Canada, by H. Michell.

No. 11, St. Alban in History and Legend: A Critical Examination; The King and His Councillors: Prolegomena to a History of the House of Lords, by L. F. Rushbrook Williams.

No. 12, Life of the Settler in Western Canada Before the War of 1812, by Adam Shortt.

No. 13, The Grange in Canada, by H. Michell.

No. 14, The Financial Power of the Empire, by W. W. Swanson.

No. 15, Modern British Foreign Policy, by J. L. Morison.

No. 16, Federal Finance, by O. D. Skelton.

No. 17, Craft-Gilds of the Thirteenth Century in Paris, by F. B. Millett.

No. 18, The Co-operative Store in Canada, by H. Michell.

No. 19, The Chronicles of Thomas Sprott, by Walter Sage.

No. 20, The Country Elevator in the Canadian West, by W. C. Clark.

No. 21, The Ontario Grammar Schools, by W. E. Macpherson.

No. 22, The Royal Disallowance in Massachusetts, by A. G. Dorland.

No. 23, The Language Issue in Canada; Notes on the Language Issue Abroad, by O. D. Skelton.

No. 24, The Neutralization of States, by F. W. Baumgartner.

No. 25, The Neutralization of States, by F. W. Baumgartner.

No. 26, Profit-Sharing and Producers' Co-operation in Canada, by H. Michell.

No. 27, Should Maximum Prices Prevail? by W. C. Clark.

No. 28, Sir George Arthur and His Administration of Upper Canada, by Walter Sage.

F1053
A78
COPY IN

SIR GEORGE ARTHUR AND HIS ADMINISTRATION OF UPPER CANADA.

THE last Lieutenant-Governor of Upper Canada before the Union of 1841 was Sir George Arthur. To most Canadians of to-day he is little more than a name, but still he played an important part in the stirring events of our political life fourscore years ago. He lacked the picturesqueness of that extraordinary personage, his predecessor in office, Sir Urancis Bond Head, and he was overshadowed completely by both Lord Durham to Poulett Thomson, better known as Lord Sydenham, who were in succession as Governors-General placed in authority over him. None the less he lives in Canadian history as the man who refused to reprieve Lount and Matthews, and who made common cause with the Family Compact against the Reformers. Although nominally he was Lieutenant-Governor of Upper Canada from his appointment in 1837 until the Act of Union went into force, his real term of office lasted only a little more than a year and a half, from March 23rd, 1838, until November 22nd, 1839. After that time he was directly subordinate to Sydenham. During that brief period Sir George Arthur proved himself an energetic if not always merciful governor.

It was unfortunate that Arthur come to Upper Canada at a time when Mackenzie's rebellion had just been crushed and when party feeling was still running very high. Sir Francis Bond Head left Toronto on the very day that Sir George Arthur arrived and so the new Lieutenant-Governor was unable to obtain much information from his predecessor. There is reason to believe, none the less, that Sir Francis put in a good word for his old friends the Family Compact and that Arthur from the beginning of his term of office favoured that party. In his first official despatch to Lord Glenelg dated March 29th, 1838, Sir George makes mention of the "large preponderating party looking to the Executive Government to put down treason by energetic measures," as opposed to "the party styling themselves Reformers" who were "hoping for

18-23250

the most lenient course." * These phrases, written when Arthur had been only about a week in Upper Canada, stamp the new governor at once as an opponent of reform. If further proof is needed it can readily be found in Arthur's reply to a congratulatory address from seven hundred and fifty citizens of Toronto upon the occasion of his arrival in that city. In that address reference was made to the fact that "in the promotion of public order, and the adoption of measures for the pacification of the country" Arthur would have "the prompt and energetic support of the loyal, patriotic and constitutional reformers of the Province." In his reply Sir George Arthur regretted that "any portion of the inhabitants of this city should have felt it necessary at the moment to present themselves under the character of reformers, as a distinct class of the people of this Province." Such a statement was not likely to secure for Sir George Arthur the whole-hearted support of all the well-disposed citizens of Toronto. The execution of Lount and Matthews further alienated the more moderate men in the Province.

When Sir Francis Head arrived in Toronto he was greeted by placards which designated him as "a Tried Reformer." † When Sir George Arthur was appointed to succeed him the London *Atlas*, on March 3rd, 1838, enquired, "What will the inhabitants of Upper Canada think of the appointment of the Governor of a penal Colony to rule over a province of free-men?" ‡ As a matter of fact, Arthur was an improvement on Head but he was never able to shake off his past traditions or to obtain as Lord Durham and Lord Sydenham did, a real insight into Upper Canadian conditions. Durham, it is true, in his Report is not nearly so successful when he deals with the upper province as when he portrays the miseries of Lower Canada, but he understood the situation there better than Head or Arthur ever did. Sydenham's ideas as to the workings of Responsible Government did not harmonize with those of Lord Elgin, but he never would have argued against it, as Arthur did, on the grounds that it was demanded by the Re-

*Arthur to Glenelg 29 March, 1838.

†Head's Narrative, p. 32.

‡Canadian Archives, Q 406, Pt. I, p. 175.

formers. From start to finish of his term of office in Upper Canada Sir George Arthur was unable to forget his experience in British Honduras where he quelled a negro insurrection and in Van Diemen's Land, now Tasmania, where he was called upon to rule a convict settlement. Above all he was a military officer, and as such was none too ready to season justice with mercy. He was the last of that series of Lieutenant-Governors of Upper Canada who were also military officers and he possessed the defects of his qualities. Stern, unbending, narrow-minded, but entirely honest he was totally unable to see his opponent's point of view.

By training Sir George Arthur was a soldier. Before he ever embarked on his administrative career as governor of one colonial dependency after another he had served many years in the army. Born in 1784, the youngest son of John Arthur of Norley House, Plymouth, George Arthur entered the army at the age of twenty. He saw service in Italy, Egypt—where he was wounded at Rosetta in 1807—and also in Sicily in 1808. He took part in the ill-fated Walcheren Expedition of 1809 and seems to have distinguished himself in it, since we read that he was thanked in general orders and also that he received the freedom of the city of London. After being military secretary to Sir George Don, the governor of the island of Jersey, Arthur, in 1812, became a major in the Seventh West India Regiment. We next find him in Jamaica as assistant quartermaster-general of the forces on that island.

In 1814 George Arthur became Lieutenant-Governor of British Honduras "with the rank of colonel on the staff."* This office, which was both civil and military, Arthur held until 1822, during which time he suppressed a serious revolt of the slave population. His despatches on the subject of slavery we are told attracted the attention of the great abolitionist, William Wilberforce. In 1822 Colonel Arthur returned to England on leave of absence in order to furnish the British Government with additional information on the subject of the emancipation of slaves. It was during this stay in England that he was in 1824 appointed Lieutenant-Governor

of Van Diemen's Land and at the same time commander of the military forces in that penal colony.

For twelve years George Arthur grappled with the terrible conditions existing in that most unfortunate island. The transportation system, one of the worst blots in British colonial history, was then at its height and its evils were only too apparent. The Select Committee on Transportation appointed by the British Parliament in its Report submitted in 1838, having outlined the unspeakable conditions existing at Norfolk Island, goes on to make the following statement regarding Van Diemen's Land:

"Your Committee will not lengthen this report by describing the penal settlements of Van Diemen's Land, where the severity of the system is as great as, if not greater than, that at Norfolk Island, where culprits are as reckless, if not more reckless, commissioning murder (to use the words of Sir George Arthur) "in order to enjoy the excitement of being sent up to Hobart Town for trial, though aware that in the ordinary course they must be executed within a fortnight after arrival."[†]

As Lieutenant-Governor of such a colony Colonel Arthur was called upon to act with firmness and often with severity. His biographer in the Dictionary of National Biography, Sir Alexander John Arbuthnot, K.C.S.I., claims that the object of Arthur's appointment was "the introduction of an improved system" of treatment for the convicts. Arthur sought to adopt "a middle course between the extreme severity of the system which would make transportation simply deterrent and the over-indulgence of the system which aimed at reforming the convict by gentler treatment. He held that it was possible to make transportation a punishment much dreaded by criminals whilst offering every facility for reform to those who were not hardened in crime; but he entertained no quixotic expectations of frequent reformation."[‡] It will be seen from this quotation that Arthur believed in the transportation system in a modified and "improved" form. In this he ran counter to the

[†]Report of Transportation Committee, 1838. Quoted in Molesworth's *Speeches*, Appendix, p. 465.

[‡]D. N. B., Article on Sir George Arthur.

wishes of the colonists who desired that an end be put to the abomination. Arthur's biographer regrets that "the colonists and their friends in England were bent on putting an end to the transportation system and their views ultimately prevailed."

This difference of opinion between Arthur and the colonists furnished W. L. MacKenzie with some of his choicest bits of invective against the new Lieutenant-Governor of Upper Canada. In his *Gazette*, MacKenzie prefaced a long series of excerpts from the newspapers of Van Diemen's Land on the occasion of Arthur's recall with the sarcasm: "Such credentials cannot fail to increase the loyalty of the happy Canadians. O, the blessings of Colonial Dependence!!!" *

These excerpts clearly show that there was a considerable body of colonial opinion in Van Diemen's Land opposed to the policies of Governor Arthur. The following from the Hobart Town *News* may be taken as fairly typical. As a matter of fact it is quite moderate in tone in comparison with some of the other invectives against Arthur.

"It was with feelings of the most sincere satisfaction, we announced in our last number the arrival of the 'good ship' "Elphinstone", from England, bringing the very gratifying intelligence of the recall of Colonel George Arthur after an administration of twelve years; during the whole of which long period the people have been rendered wretched, unhappy, discontented and miserable by the misrule of his government. . . ." †

Of course, no one would look into the pages of MacKenzie's *Gazette* to get a favourable impression of Sir George Arthur, but a perusal of these excerpts shows that the dissatisfaction against Arthur was widespread. The Launceston *Advertiser* states that, "Throughout the whole period of his government the military have been placed in too prominent a position. Lieutenants and Ensigns, fresh from the frolics of Chatham, have been turned into justices of the peace and the whole administration of the colony has been pipe-clayed into a service

*Canadian Archives, Q 406, Pt. I, p. 226.

†Ibid.

of an amphibious, half-military, half-civil complexion." ‡ The *Colonial Times* quite frankly lays it down that "A worse British Governor never ruled during the present century." * This is strong language, written in the heat of the moment, but when sufficient discount is made for hot temper the fact remains that Sir George Arthur made a number of enemies in Van Diemen's Land.

To a certain extent Arthus was not to blame since he was the victim of circumstances. He was forced by the nature of his office to uphold the abominable system of transportation and his position as commander-in-chief of the military forces on the island made him a military as well as a civil governor of a penal colony. But on the other hand, he was by nature an aristocrat with but little democratic feeling. He mistrusted popular government and he had to keep down a discontented population of whom over one-third were convicts. Sir William Molesworth in his speech on transportation delivered in the British House of Commons on May 5th, 1840, ** gives the following statistics culled from Sir George Arthur's despatches from Van Diemen's Land in 1834. "Its population in 1834 did not exceed 40,000, of whom 16,000 were convicts, 1,000 soldiers, and 23,000 free inhabitants; what proportion of the latter had been convicts it is impossible to say. In this small community the summary convictions amounted to about 15,000 in the year in question, amongst which there were about 2,000 for felony, 1,200 for misdemeanour, 700 for assaults, and 3,000 for drunkenness. Eleven thousand of these convictions were of convicts who are summarily punished for all offences to which the penalty of death is not attached." With such a turbulent population to control it is no wonder that Sir George Arthur had but little belief in popular government.

But however great the opposition to Governor Arthur in Van Diemen's Land may have been, the Australian Commonwealth to-day owes him one debt of gratitude. According to his biographer Arbuthnot, Arthur was the first person to sug-

‡Ibid., p. 232.

*Ibid., p. 227.

**Molesworth: *Speeches*, p. 112.

gest the advisability of a federation of all the Australian colonies. In this he was years in advance of his time. Still it is to be doubted whether any scheme of federation brought forward in Arthur's time could have been so complete and satisfactory as that consummated in 1901.

After his return to England in March, 1837, Colonel Arthur received the Hanoverian Order of Knighthood. At the close of the same year he was appointed Lieutenant-Governor of Upper Canada and at the same time given "the military rank and command of a major-general on the staff." Sir George Arthur was now nearly sixty years of age and had been for over twenty-two years a colonial governor. During that period he had wielded almost despotic power. It was not at all likely that he would be inclined to look with favour upon the demands of the Upper Canadian Reformers for "Responsible Government."

On his arrival in Upper Canada Sir George Arthur was faced by a situation of the utmost delicacy. The rashness and wrong-headedness of Sir Francis Bond Head and of William Lyon MacKenzie had brought on the Upper Canadian Rebellion. The skirmish at Montgomery's Tavern occurred on Thursday, December 7th, 1837, and at the close of the day W. L. MacKenzie was a fugitive with a price on his head. The affair of the "Caroline" took place on December 29th. The destruction of this American steamboat resulted in considerable excitement in the United States and relations between the British and American governments became somewhat strained. The arrest and trial of Alexander McLeod on the charge of murdering Amos Durfee, an American citizen, who was killed during the raid on the "Caroline", further complicated the situation. It was not until 1842 that the incident was finally closed by a letter of apology addressed by Sir Robert Peel to Daniel Webster.

Shortly after the destruction of the "Caroline" by the Canadians, MacKenzie's sympathizers, who had seized Navy Island in the Niagara River near the Falls, were forced to abandon their post, and the centre of disturbance shifted westward to the Detroit River. On this frontier an attack was planned by American sympathizers and disaffected Canadians against Fort Madden which was situated sixteen miles from

Windsor, Ontario. The attempt proved disastrous and resulted in the capture of "General" Theller and other American sympathizers, who were sent to Toronto for trial. On the 3rd of March, 1838, Pelée Island in Lake Erie was captured by another band of invaders who were driven off by a Canadian loyalist force under Colonel Maitland. This was the last serious attempt made from the United States before the arrival in Upper Canada of Sir George Arthur.

The new Lieutenant-Governor then found himself involved in a peculiar international situation. Were these American sympathizers foreigners who were levying open war against the province committed to his charge, or were they merely marauders to be classes as pirates? This problem complicated another question of the utmost and pressing importance which was, in what way were the leaders of the late rebellion to be treated? The Family Compact men and the Tories generally thirsted for their blood. Two of the leaders of MacKenzie's rebellion, Lount and Matthews, were already in prison and were shortly to be put on trial for their lives. The problem which Sir George Arthur had to settle was whether or not the extreme penalty of the law should be exacted.

It was not to be expected that the ex-governor of a penal colony would show much mercy towards these men who had taken up arms against constituted authority. Nor did he. Lount and Matthews pleaded guilty and were on March 29th sentenced to death. The execution was to take place on April 12th. Sir George Arthur had, of course, no part in sentencing them to death. That was done by Chief Justice John Beverley Robinson, who, Kingsford tells us, pronounced sentence "with that felicity of language ever at his command, but its tone was merciless." † Sir John Beverley Robinson's son and biographer, Major-General C. W. Robinson, quotes from the *Law Journal* of Upper Canada for March, 1863, to show that "of the three individuals concerned, the Chief Justice was most certainly the most painfully affected." But whatever his private feelings may have been the Chief Justice was unbending

†Kingsford: *History of Canada*, Vol. X, p. 472.

in his determination that no mercy be shown. He refused to advise the Lieutenant-Governor that Lount and Matthews be either pardoned or respiteed.‡ In this opinion of the Chief Justice the Attorney-General, Hagerman, concurred, and although there was great excitement in the province and "petitions signed by not less than 8,000 persons"** were presented, a reprieve was not granted and the two rebel leaders were executed on the day set.

Two days later, on April 14th, Arthur penned a long despatch on the subject to Lord Glenelg. This document shows clearly how completely the new Lieutenant-Governor was in sympathy with the Family Compact and how entirely he failed to understand the point of view of the Reformers.

The despatch professes to deal with the cases of Samuel Lount and Peter Matthews, "with a general view of the course to be taken with respect to persons committed for High Treason." Arthur begins by combatting a statement made by Lord Glenelg in a despatch dated January 6th, 1835, addressed to Sir John Colborne and marked "separate," to the effect that,

"Her Majesty's Government could not fail to notice the wide difference which exists between the circumstances which have taken place in Lower Canada, and the recent events in Upper Canada. So far as can be collected from the information now before me, the chief motive which influenced the instigation of the disturbance in Upper Canada appears to have been the view of plunder, and the offences which they perpetrated, seem to bear comparatively little of a political character."

Lord Glenelg's grasp of the situation in Upper Canada may be inferred from the above passage and Sir George Arthur proceeds to enlighten him. Several sentences from his despatch deserve quoting in full, since they show how readily Sir George Arthur had embraced the Tory point of view.

"In Upper Canada, the same pretensions to patriotism—the same assertions of republican Principles—the same accusations against the Government of Tyranny and Corruption—were put forth as the ground and justification of the Rebellion

‡Cf. Arthur to Glenelg, April 14th, 1838, Canadian Archives G, 494.

*Ibid.

as in the Lower Province. In Lower Canada, the right was insisted on, of the popular Branch of the Legislature sullenly to refuse acting as a legislative Body, and to bring to a complete stop all beneficial operations of Government, and to assert a supremacy inconsistent with the relations of a Colony with the parent state.

"In Upper Canada arms were taken up with the avowed purpose of assisting the Lower Canadians, and of asserting the same principles as applicable to this Colony. In Upper Canada the majority of the Assembly were attached to British Institutions; but this Majority was asserted to have been brought about by unconstitutional means on the part of Government, and the use which the revolutionary Party had made of a majority in Parliament when they had it, was precisely the same here as in Lower Canada: namely, to coerce the Government by a refusal to grant the necessary supplies. The Revolutionists in neither province hoped by themselves to overthrow the Government. They alike solicited foreign aid, and by its means expected to accomplish those designs. . . ."

It may easily be seen from the above quotation that Sir George Arthur misunderstood the political situation in both Upper and Lower Canada. He failed entirely to appreciate the aims of the Reformers and considered them a grave menace to the security of British rule in Canada. So imbued was he with the point of view of what he terms the "Constitutional Party" that he believed the rebel leaders, including Lount and Matthews, had proved "not only that they were determined, with their own hands, to execute the foulest deeds in furtherance of their project of subverting the Government; but they had encouraged a class of dissolute and vagrant Foreigners to join in their enterprise, who, they well knew, would not hesitate to inflict upon the inhabitants of this Province, if they could have subjugated them, the most barbarous atrocities."†

Under such circumstances, if the British connexion was to be preserved and law and order firmly re-established, it was necessary, Arthur considered, that several public examples should be made. Lount and Matthews had pleaded guilty of the heinous crime of rebellion against authority and were con-

†Arthur to Glenelg: April 14th, 1838.

victed of high treason. The penalty was death and it made no difference to Sir George Arthur whether eight thousand or thirty thousand[‡] persons signed petitions for their reprieve. He could not understand that Lount and Matthews were in the eyes of a very large section of the province merely political prisoners who had been unfortunate enough to appeal to arms and be defeated by their opponents of the Tory party. The fact that the Lieutenant-Governor and the Executive Council were adherents of this Tory party did not, in itself, mean that Lount and Matthews were traitors. High treason is a very serious thing and so is armed rebellion, but the skirmish at Montgomery's Tavern could hardly be called a battle and there had been great provocation.

In refusing to reprieve Lount and Matthews or even to postpone their execution until he had had an opportunity to confer with the Colonial Office, Sir George Arthur made the chief blunder of his career as Lieutenant-Governor of Upper Canada. To be sure he acted in complete harmony with his Executive Council, whose advice he took in the matter, but he did not understand the real feeling of the province. It is doubtful whether any but the most rabid Tories favoured the exaction of the death penalty. The ends of justice could have been secured either by transportation or banishment. Nor did the Colonial Office entirely favour the executions of these men. On May 22nd Lord Glenelg wrote to Arthur as follows:

"I have received your despatch of the 29th March, No. 1, reporting your proceedings up to that date, and the measures which you proposed to adopt with reference to the militia and volunteers, and stating that two of the most active of the persons engaged in the late revolt, having been brought to trial, had pleaded guilty and been sentenced to death, and assuring me that the most merciful consideration would be shown towards the prisoners generally.

"I have laid your despatch before the Queen, and have to convey to you Her Majesty's approbation of the proceedings which you have reported. Since the receipt, indeed, of your despatch, intelligence has appeared in the public papers of the

[‡]Both numbers are given—the higher number, 30,000, by MacKenzie.

execution at Toronto of Messrs. Lount and Matthews, the individuals, as I presume, alluded to in your despatch.

"I have every confidence that before consenting to such a means, you devoted to the cases of these persons a calm and dispassionate consideration, but as I have hitherto received from you no report of these executions or of the grounds on which you decided to let the law take its course, I abstain for the present from any further comment on them.

"I am happy to learn, through the same channel of information, that no further executions were likely to take place." *

Eight days later, on May 30th, 1838, after receiving Sir George Arthur's despatch of the 14th of April, Lord Glenelg again alluded to the execution and this time one feels that, in his own mild way, the Colonial Secretary is seeking to restrain Arthur:

"I have received your despatch of the 14th April last (No. 4), reporting the executions, on the 12th of that month, of Lount and Matthews, who had been convicted, on their own confession, of 'high treason,' and explaining, at considerable length, the views adopted by yourself and the Executive Council with regard to these prisoners, and the considerations which appeared to you imperatively to demand that the law in the case should be allowed to take its course.

"Her Majesty's Government regret extremely that a paramount necessity should have arisen for these examples of severity. They are, however, fully convinced that you did not consent to the execution of these individuals without having given the most ample consideration to all the circumstances of the case, and they have no reason to doubt the necessity of the course which, with the entire concurrence of the Executive Council, you felt it your duty to adopt." †

The Colonial Secretary did not censure Arthur for his conduct in the matter of the execution of Lount and Matthews but he added a significant paragraph regarding the treatment of other political prisoners.

*Glenelg to Arthur, No. 70, 22 May, 1838; Brit. Parl. paper, 2, 1839, p. 279.

†Glenelg to Arthur, No. 82, 30th May, 1838; op. cit. pp. 279-80.

"With respect to the disposal of the other prisoners, Her Majesty's Government cannot give you any specific instructions, until they shall have received the report which you lead me to expect. But I cannot defer expressing our earnest hope that, with respect to these persons, your opinion that no further capital punishments will be necessary, may be acted on. Nothing would cause Her Majesty's Government more sincere regret than an unnecessary recourse to the punishment of death, and I am persuaded that the same feeling will influence not only yourself, but the Executive Council. The examples which have been made in the case of the most guilty will be sufficient to warn others of the consequences to which they render themselves liable by such crimes, and this object having been accomplished, no further advantage could be gained by inflict the extreme penalty of the law on any of their associates." †

The death of Lount and Matthews seems to have satisfied were American citizens, were sentenced to transportation. the desire for revenge on the part of the extremists and a milder course of policy was then pursued by the Lieutenant-Governor and Executive Council. Several other leaders including "Generals" Sutherland and Theller, both of whom Theller had been sentenced to death and, according to his own account, was only saved from the gallows by the energetic agitation in his favour of the Irish section of the population. He has left a voluminous account of his captivity, including his sensational escape from the Citadel of Quebec, in his book, *Canada in 1837-8*, to which the reader is referred if he wishes to obtain a very highly-coloured bit of autobiography.*

Theller's case brought up a very interesting question of International Law. He had been born in Ireland and had become naturalized as an American citizen. When put on trial for his life on a charge of high treason Theller pleaded that his American naturalization had rendered him no longer a British subject. Against him a precedent of 1747 was quoted to support the doctrine of "perpetual allegiance," i.e. "once a British subject, always a British subject." The jury brought

‡Ibid.

*E. A. Theller, *Canada in 1837-8*, 2 vols., Philadelphia, 1841.

in the curious verdict that "if the prisoner was a British subject he was guilty of treason." Chief Justice Robinson, acting in accordance with his belief in the doctrine of 'perpetual allegiance' ruled that Theller was still a British subject and thereupon sentenced him to death. Under the circumstances to carry out the death sentence would have been very inadvisable. Pressure was brought to bear upon the Lieutenant-Governor and the Executive Council, and as a result a respite was granted "until Her Majesty's pleasure should be known." † Theller was soon after removed from Toronto to Quebec and detained there in the Citadel, from which he escaped. Sutherland was tried by court martial, imprisoned in Toronto and Quebec, and finally returned to American soil.

These American prisoners were very embarrassing to the Upper Canadian authorities. There was still considerable excitement along the American frontier and the danger of invasion was by no means over. Lount and Matthews were considered martyrs by many on the American side of the border. Highly coloured accounts of the execution appeared in the American press. Even the *New York Sun* took up the matter and recounted how Mrs. Lount on the day previous to her husband's execution "pleaded with Governor Arthur for hours for his life, and when she pointed to *thirty thousand names* who petitioned with her for the exercise of the royal prerogative, he coldly replied 'that he had not believed that Mr. Lount had so many friends in the province, and that there was the more necessity that he should be made an example to the rest.'" ‡ Under these circumstances the execution of Theller would have added oil to the flame.

The Congress of the United States passed a "Neutrality Bill" which cleared up the situation a great deal by denying official sanction to any schemes of invasion and enjoining neutrality on all American citizens. The state authorities along the frontier also tried to prevent any movement of armed forces against Canada. Theller records how he successfully dodged the American authorities in making his attack on Fort Madden and how Governor Mason of Michigan was com-

†Theller, *Canada in 1837-8*, Vol. I, p. 261.

‡Canadian Archives, Q 406, Pt. I, pp. 177-8.

ing down the river with a strong force when Theller and his friends approached the island of Bois Blanc which lies in Canadian waters. No doubt there often was a certain amount of laxity on the part of the American authorities, and Sir George Arthur finds occasion to condemn it at times, but the United States Government seems on the whole to have acted very wisely. The burning of the "Caroline," which it should be remembered was an American vessel attacked by a Canadian force in American waters, might easily have led to very serious consequences. If President Van Buren and his cabinet had wanted war it would have been quite possible to claim the destruction of the ill-fated "Caroline" as an overt act of hostility. Fortunately milder counsels prevailed and war was avoided. But this incident profoundly affected and prolonged the agitation on the American side of the border.

On April 23rd, 1838, an "authorized agent" of the United States Government, Mr. Aaron Vail, who had recently been Chargé d'Affaires in the American Embassy in London, arrived at Toronto. Mr. Vail, according to the official despatch of the British ambassador at Washington, Mr. H. S. Fox, was charged with the task "of inquiring into, and reporting upon, the actual condition of various individuals, who are now in confinement in Canada." Mr. Fox considered Mr. Vail a very fitting envoy and that his mission would be beneficial "by dissipating false rumours which tend to keep alive feelings of ill-will between the British and American inhabitants on the Canadian frontier."

Aaron Vail's mission seems to have fulfilled expectations, for on April 25th Arthur wrote to Fox that it was quite impossible that a more proper person than Mr. Vail could have been selected by the President, and that he trusted all the benefit would result from his mission as Fox had anticipated. Vail does not seem to have formed a very high opinion of the American prisoners, whom he described as "the 'scum' of the population." * Theller has left us an amusing account of how the Toronto gaol was carefully scrubbed in honour of Vail's visit and how the prison authorities hinted that "the Americans had better clean and dress up, as they might expect to

*Arthur to Glenelg, 24 April, 1838, No. 8.

see some visitors, and probably hear some good news." † The prisoners poured out their tale of woe to Vail who "took notes and assured us that the government of the United States would strictly inquire into the matter." ‡ Nothing much, however, seems to have resulted from the inquiry, since it was evident that Vail's mission was to smooth over affairs rather than to stir up further strife by issuing an inflammatory report on Canadian conditions.

Soon after the departure of Mr. Vail occurred the trial and conviction of Charles Durand. Durand's case was peculiar, and noteworthy as illustrating the methods employed by Arthur and his Executive Council to stamp out disaffection. Durand was put on trial for high treason, the chief evidence against him being a letter which was found in his house among his papers addressed to W. L. MacKenzie, and which contained within it charges against the Executive Council and Family Compact generally. This letter was never sent and MacKenzie in his *Gazette* denies ever having seen it. It was, therefore, a high handed proceeding to sentence a man to death on the evidence of a private paper which was never published. Durand was afterwards respite and banished to the United States, but his trial and conviction on the 7th of May did not tend to increase the popularity of the Lieutenant-Governor and his Executive Council.

Durand's letter certainly was written in no mild tone and it still breathes forth the spirit of disaffection. But it was never published and as such should not have been used to convict its author. The following sentences will serve as a sample of the whole:

"The principles of the reformers are those of truth, are those that tend to promote the happiness of the many—instead of the few. Although in common with thousands of the old farmers in Canada, with thousands of the sons of U. E. Loyalists, I was willing to petition the mother country for the redress of our political wrongs, and even to petition them again and again, yet when I see insult upon insult heaped upon the reformers of this Province: our Governors allowed with im-

†Theller, Canada in 1837-8, Vol. 2, p. 9.

‡Ibid., p. 10.

punity to slander and laugh at the people and their House of Assembly—when I see Governors who have held up with both hands the gracious despatches of the deceitful and tyrannical Colonial Office—conspiring against the liberties of this colony by establishing a 'Dominant Church' and 'English Church Rectories' amongst us against our will and desire, *raised, promoted* and *applauded* for deceiving the people here, when I see Judges suspended and dismissed from their offices for voting for liberal men and the *elective franchise*, the only spark of liberty we can boast of, trampled down by office holders, and done away with by the Governor issuing thousands of patent deeds to his favorites and officials, I begin to ask myself, shall I, shall we, who have made the country what it is, be used thus with impunity? Shall we, the native Canadians, the sons of U. E. Loyalists, be called aliens in the land of our birth, and by the fluttering officials that hang on the smiles of a Governor's brow—I say nay. I feel that we are too tame—that we have forgotten that we are free—that we are in America," * etc. etc.

There is no need to quote more of this verbiage. The above is sufficient to show that Durand was able to "tear a passion to tatters, to very rags," and if he had ever had this letter published it would have doubtless "split the ears of the groundlings." The curious thing is that a man should be condemned to death for writing such a letter. Truly Arthur and his Executive Council lacked a sense of humour!

About this time a new movement against Canada was on foot in the United States. "Hunters' Lodges" were formed with the object "never to rest, till all tyrants of Britain cease to have any dominion or footing whatever in North America."† This new organization seems to have originated in May, 1838, and to have spread rapidly, especially through the states bordering on Upper Canada. Lindsay tells us that at a convention of the Hunters' Lodges of Ohio and Michigan held at Cleveland from September 16th to 22nd‡ of that year, seventy

*Can. Archives, Q. 406, Pt. I, pp. 166-7.

†Quoted: Kingsford, X, p. 457.

‡Lindsay: *Life of W. L. MacKenzie* (Makers of Canada Series), p. 440, gives the month as September; Kingsford gives December.

delegates were present. At this meeting a republican government was appointed for Upper Canada, including a president and complete cabinet. A "republican bank of Upper Canada" was projected which was to issue a paper currency adorned with the heads of Lount, Matthews and Moreau who took part in the Short Hills affair in June, 1838, to which reference will shortly be made. But the members of the "Hunters' Lodges" though full of enthusiasm were short of funds, so the bank did not prosper.

Before this grandiloquent meeting at Cleveland there had been several disturbances along the border. The first of these was the destruction on May 30th, of the Canadian passenger steamer "Sir Robert Peel" at Wells' Island by American sympathizers. Wells' Island, one of the Thousand Islands, is situated in American waters and so the authorities of New York state were to a certain extent negligent in allowing the incident to occur. The destruction of the "Sir Robert Peel" seems to have been regarded by the "patriots" who boarded her as an act of revenge for the burning of the "Caroline." But whatever the motives of those concerned the incident caused bad feeling along the border. An American steamer, the "Telegraph," was fired upon on June 2nd by the Canadian sentries at Brockville, the excuse given that the "Telegraph" had not answered when hailed by the sentries. An investigation was held at which the authorities of St. Lawrence County, N.Y., were present, and it was ascertained that the sentries had acted without orders.

A few days after these incidents a body of "patriots" under the leadership of James Moreau crossed the Niagara frontier in order to free Upper Canada. Moreau, who is called Morrow in the Canadian records, issued a proclamation which called upon the Canadians to come to his assistance and proclaimed that this was the hour of their redemption. The answer of the "oppressed Canadians" was the engagement fought at the Short Hills on June 21st when the "patriots" were defeated by the Canadian militia. Moreau fled with a price on his head but was captured, tried and condemned to death. The Executive Council on July 26th refused to reprieve him since he was considered a proper case for capital punishment under an Act of the Parliament of Upper Canada passed

the previous session in order "to protect the Inhabitants of this Province against lawless aggressions from Subjects of Foreign Countries at Peace with Her Majesty." Moreau was accordingly executed at Niagara on July 30th. If Sir George Arthur had had his way there would have been more executions, but Lord Durham intervened.

The next serious outbreak on the frontier was the attack of von Schoultz near Prescott on November 11th. The invaders seized a point of land on which a stone windmill had been built and fortified the place. An engagement ensued and the invaders were driven back to shelter within the windmill. On the 14th of November British reinforcements, including artillery, arrived, and two days later an attack was made at the distance of only 400 yards. The garrison of the windmill then surrendered and nearly 160 prisoners were taken.* Von Schoultz and nine others were executed in Kingston. Von Schoultz was defended by Sir John A. Macdonald, then a young barrister just beginning his profession, but there was little that could be said in his defence.

The last movement against Upper Canada took place on December 4th, when an attack was made on Windsor. This affair is thus described in the District General Orders of December 10th, dated at Toronto:†

"A large body of pirates and brigands, belonging to the hostile combination in the neighbouring country which has of late so much disturbed the peace of this province, after assembling in the neighbourhood of Detroit, and showing themselves at different points in the vicinity, at length had the hardihood to effect a landing near Windsor, about three miles from Sandwich, on the morning of the 4th instant, where they commenced their work of destruction by burning a steam-boat called the "Thames," and a house used as a barrack, making prisoners a small but gallant party of militia quartered therein, who, in defending themselves against the attacking banditti shot their leader and eventually effected their escape."

At Sandwich, Colonel Prince gathered a force of local militia, made "a spirited attack" and put the invaders to flight.

*Arthur to Glenelg, 24th November, 1838, No. 92.

†Parl. Paper, 2, 1839, p. 370.

Four prisoners who had been taken were shot by orders of Colonel Prince, whose action was afterward severely censured by Lord Brougham and others. After the action at Sandwich the rest of the invaders either recrossed to American territory or else took to the woods, where many perished from the cold. So ended the last attempt at invasion of Upper Canada. Seven of those captured at Windsor were executed at London, including Daniel Davis Bedford and Albert Clark. The cases of these two men were discussed at two separate meetings of the Executive Council and it was decided that each of them should suffer the death penalty. In these decisions Sir George Arthur entirely concurred. The ex-governor of the penal colony was still exacting vengeance. In his defence it should be stated that the loyal section of the province, including the Executive Council, considered these men filibusters and murderers.

The treatment meted out by the Executive Council to those British subjects, American citizens and others who were taken in arms against the government of Upper Canada has been discussed at some length. This has been done for two reasons, first that it bulks so large in Sir George Arthur's official despatches, and second because it shows what complete harmony existed between Sir George and his Executive Council. Not even Sir Francis Head was more devoted to the Family Compact party. Sir George Arthur was by temperament and training entirely on the side of established authority and opposed to disaffection in all its forms. A strong conservative, he mistrusted the rule of the people and, therefore, opposed as stubbornly as possible the popular demand for Responsible Government. In this, as in other respects, Arthur found himself completely at variance with the Governor-General, the Earl of Durham.

It was unfortunate for Arthur that he was in Upper Canada during a period of unrest and transition. It was even more unfortunate for him that he was brought into contact with Lord Durham. Durham was a man of vision who sketched out a mighty scheme which took years to put into actual practice. Arthur was a man of routine who could not appreciate either Durham or his visions. Above all he mistrusted

that pet project of Lord Durham, Responsible Government, and did not hesitate to say so.

The appointment of the Earl of Durham as Governor-General of the British North American provinces was deeply resented by Sir George Arthur. By virtue of his commission Durham was empowered to assume the government of the province in which he might be and to retain it during his residence in that province. During that period the functions of the Lieutenant-Governor were to be altogether suspended.‡ Due notice of this fact was sent each of the Lieutenant-Governors of the British North American provinces including, of course, Sir George Arthur. After receiving this notice Sir George wrote on June 5th, 1838, to Lord Glenelg, complaining of this arrangement. He based his case against it on his experience in Van Diemen's Land, which was during his tenure of office there a dependency of New South Wales, and called to Lord Glenelg remembrance a conversation he had had with him on the subject. In fact, as Arthur reminds Glenelg, the terms on which he consented to become Lieutenant-Governor of Upper Canada were that no change of that sort would be made.

Three days after writing thus to Lord Glenelg Sir George Arthur received a circular letter from Lord Durham requesting him "to enter into the most free and confidential communication . . . on all subjects affecting the province of Upper Canada, both as regards its internal condition and the state of affairs on the frontiers." * Lord Durham included in this letter the following paragraphs in order to allay the suspicion that might exist in Arthur's mind that he wished to diminish the Lieutenant-Governor's authority,

"Your Excellency will of course understand that this request does not contemplate any interference with your administration of the government, but refers to the necessity which exists that I, as Governor-General of all the North American provinces, should be immediately informed of all matters of general interest affecting the high and important mission which has been conferred upon me.

‡Cf. Glenelg to Durham, April 3rd, 1838, No. 8, Parl. paper 2, p. 12.

*Durham to Arthur, 1 June, 1838; No. 1. Parl. paper, 2, p. 109.

"It will be my duty as well as my inclination to uphold your authority, not only from the respect which I must entertain for you personally, but from a due regard to the efficiency of the public service."

This circular must have mollified Arthur somewhat, or else he was too well trained a public servant to show his innermost feelings. At any rate he writes to Durham on June 9th as follows,

"I sincerely thank your Lordship for your very kind declaration of confidence in me and for the determination which your Lordship has expressed of upholding my authority.

"It is peculiarly gratifying to me to receive these assurances from your Lordship, for I ought in candour to say that from the time I received Lord Glenelg's 'Circular,' I have been very apprehensive of the embarrassment which might arise out of the new relative position in which I found myself most unexpectedly placed. The immeasurable distinction between your Lordship's station and my own must satisfy your Lordship that this has proceeded from no vain jealousy, on personal grounds, of the control of a superior. With diminished influence I feared the ability of being useful to Her Majesty's Government and to this province would be taken away; for I have to co-operate with a legislature which must have a reasonable degree of confidence of my powers to act in union with them, and to fulfil my professions.†"

To this rather naïve letter Durham on June 18th replied stating even more clearly that no act of his would diminish Arthur's influence and authority in Upper Canada. He goes on to put his case as follows,

"I repeat to you, that I have no wish to interfere with the local administration of the affairs of any of the provinces included in my general government.

"Those functions will be vested, as before, in the Lieutenant-Governors; but it is essential to the success of my mission, and to the due execution of my duties, more especially in the present disturbed state of our relations with the frontier population of the United States, that I should be promptly and

†Arthur to Durham, June 9th, No. 1, Parl. paper 2, p. 116.

directly made acquainted with all events bearing on those important questions."

Arthur seems to have followed out Durham's instructions as regards frontier troubles to the letter, since we find the following postscript added to his despatch of June 22nd, 1838 (No. 4) :

"P.S. I make now no communications myself to the American Government, and have troubled your Lordship with all these particulars, as a representation will of course come with far greater force from your Lordship."‡

In July, 1838, Lord Durham made a flying visit to Upper Canada. His object seems to have been to ascertain for himself existing conditions in this province and to form his own opinion as to what policy it would be best to pursue. He writes thus to Lord Glenelg from Montreal on July 6th:

"Lower Canada is perfectly free from internal troubles, and her frontier is not menaced by the Americans; but Upper Canada, by the last accounts from Sir George Arthur, is in a very unsatisfactory state, both as to domestic dissensions and border incursions. I am anxious, therefore, to proceed there as soon as possible." *

Lord Durham left Montreal on July 10th, arrived in Kingston late on the night of the 11th, and then proceeded to Niagara. At Niagara Sir George Arthur met him. From Niagara Lord Durham journeyed to Toronto where Sir George was also present to receive him formally, along with the mayor and corporation and the citizens of the provincial capital. On the 19th of July Durham returned to Kingston and thence down the St. Lawrence to Montreal where he arrived on July 24th. His visit to Upper Canada had been short but he had covered a great deal of territory and seems to have been pleased with what he saw.

If one of Lord Durham's objects in making his hurried trip to Upper Canada was to obtain a better understanding with Sir George Arthur he must have been disappointed since shortly after his return to Lower Canada their relations became somewhat strained. The reason for this was the action

‡P.P. 2, p. 125.

*Durham to Glenelg, No. 24, P. P. 2, p. 139.

of Sir George Arthur and his Executive Council in sentencing to death Samuel Chandler and Benjamin Waite for their part in the Short Hills affair. The families of these men had appealed to Durham "for an extension of the Royal mercy" and "for the grant to them of Her Majesty's pardon."** Durham asked Arthur for particulars, reminding him that Lord Glenelg had written on the 3rd of April asking that "the utmost lenity, compatible with public safety, should be exercised towards the insurgents."

To this Sir George Arthur replied on August 20th, complaining that Durham's action was "depriving the officer administering the Government of Upper Canada of the powers expressly vested in him by the Royal Commission." † Arthur also claimed that Durham "had misapprehended the intention of the instruction of the Secretary of State" and Lord Glenelg had in a despatch of July 12th referred him "to the power of pardoning for treason vested in the officers administering this government under your Lordship's commission as Governor-in-Chief."

Durham in his turn maintained that all he wished was to exercise the superintending authority he possessed as Governor-General. He admitted that Arthur had the power of pardoning for treason delegated to him, but would argue that that power was exempt from "the general subordination to instructions from the Governor-General." ‡ Durham then proceeds to give his opinion of Sir George Arthur's policy in the following terms.

"Your Excellency's explanation of the policy which you had determined on adopting with regard to the prisoners convicted at Niagara does not immediately strike me as indicating a course so obviously correct that I can dispense with the information which I required in my despatch of the 16th instant. I cannot quite admit the propriety of selecting some one subject of Her Majesty to share the fate of Morreau, the leader of the expedition, who happened to be a citizen of the United States. The fate of Her Majesty's subjects should be

**Durham to Arthur, 16 May, 1838, pp. 2, p. 163.

†Ibid., Arthur to Durham, 20th Aug., 1838.

‡Durham to Arthur, Aug. 24th, 1838; Ibid., p. 164.

determined on a view of their own conduct, and of the circumstances which have led the juries to accompany their verdict of guilty, in every case, with a recommendation to mercy."

A further despatch of Lord Durham to Arthur on September 18th went into the case of Jacob Beamer in some detail. Beamer had been singled out by the Executive Council as the scape goat and was alone to suffer the death penalty. To this Durham would not agree but requested that the case be referred to Lord Glenelg. This despatch is interesting since it shows that the Executive Council of Upper Canada was at this time none too friendly towards Lord Durham and was quite willing to stir up strife between the Governor-General and the Lieutenant-Governor.

In the meantime the correspondence between Arthur and Durham had continued at some length and not always with the best of feeling. But no actual breach seems to have occurred and at length the vexed problem of the political prisoners seemed likely of solution. A general amnesty was to be proclaimed for all except a certain few who were to be named in the proclamation. But by this time Lord Durham was preparing to return to England.

Among the despatches sent by Sir George Arthur to the Earl of Durham is one dated July 9th, 1838, which deals with the political condition of Upper Canada. This letter establishes without a doubt the close adherence of Sir George Arthur to the Family Compact party, all the more so because Sir George tries to claim his independence of all party affiliations. It also shows that the Lieutenant-Governor had received instructions from the Home Government "to pursue the policy and measures of Sir Francis Head." This Arthur apparently had attempted to do in so far as his support of the dominant party in the province was concerned. He had fallen in completely with their way of thinking and had failed to distinguish between reformers and rebels. He even warned Lord Sydenham that Dr. Egerton Ryerson was "a dangerous man" chiefly because Ryerson supported Mr. Bidwell, who had been Speaker of the Legislative Assembly and had been forced to leave the province on account of persecution by Sir Francis Head and his Executive Council after MacKenzie's Rebellion.

In this letter of July 9th Sir George Arthur attempts to combat the opinions of Mr. Isaac Buchanan, a reformer, who had been presenting his views on the Upper Canadian political situation to Lord Durham. According to Arthur, Mr. Buchanan was endeavouring to prejudice Durham's mind "against some of the most respectable and most highly esteemed men in the province," and the Lieutenant-Governor hastened to defend his friends. One or two sentences from this despatch deserve quotation as showing Arthur's attitude towards the self-constituted aristocracy of Upper Canada.

"In this Colony, as in other countries, respectable station, united with superior talents and good conduct, gives a certain degree of influence which is natural and salutary, and it would be of all things ungracious and discouraging, as well as impolitic, if the Government were to manifest a jealousy of an influence so honorably acquired. It is, so far as I have been able to judge, most unobtrusively exercised and I am satisfied, from what I have experienced, that so far as he can conscientiously do so, your Lordship will have the most cordial co-operation of the Chief Justice and of all the Family Compact, in all its ramifications throughout the Province." *

In this same despatch Arthur informs Durham that he had "amicably discussed with the Leaders of each Denomination, the long contested Clergy Reserves Question," and had the intention of "bringing in a Bill to reinvest those lands in the Crown "if better means could not be found of providing a settlement. He also thought that he would be able to carry any measure he desired successfully through the Provincial Parliament. It should be remembered that the ultra-tory assembly of 1836, at whose elections Sir Francis Head so distinguished himself, was still in existence and that Sir George Arthur thought that it would pass any measure brought forward by the government. Already on a previous occasion Sir George had written to the Governor-General on the same subject of the Clergy Reserves and had expressed a hope that asperities had been already softened and that at the next meeting of the Legislature he would be able to see this long-pending contest terminated upon nearly the same principle as

*Arthur to Durham, July 9th, 1838, Can. Archives, G. 494, p. 507.

it had been settled in Van Diemen's Land during his administration there. But in this pious hope Arthur reckoned without the opposition of the Reformers.

The aim of Sir George Arthur and the Executive Council was "to secure the removal of the Clergy Reserves question from the hostile arena of the Upper Canada Legislature to the friendly atmosphere of the English House of Commons, and the still more friendly tribunal of the House of Lords—where the bench of bishops would be sure to defend the claims of the Church to their royal patrimony." † This project the Reformers and opponents of the Clergy Reserves were determined to resist to the uttermost. A long controversy raged during 1838 and 1839. In December, 1837, a bill had been brought forward to reinvest the Reserves in the Crown, but a despatch from the Home Government which arrived soon after showed that the British Parliamentary authorities had no desire to interfere in the settlement of this vexed question. During 1838 Sir George Arthur still hoped that the scheme for reinvesting the Clergy Reserves in the Crown would carry as the references in his despatches, cited above, show. Such a bill would have suited the members of the Executive Council and Family Compact generally. It would have meant that the Church of England would have still profited at the expense of the other denominations. As it was, in 1837 out of a total of £10,852 11s 8d the Church of England received £7,291 5s 0d, the Church of Scotland £1,425, the United Synod of Upper Canada £636 6s 8d, and the Roman Catholic clergy £1,000.‡ The Wesleyan Methodists and other denominations did not receive one penny from the "one-seventh of all Crown lands set aside for the support of a Protestant clergy."

Upon the reassembling of the Upper Canadian Legislature in February, 1839, Sir George Arthur stated that "the settlement of this vitally important question ought not to be longer delayed" and hoped that the contending parties could be amicably adjusted, but added meaningly that if all their efforts failed it would only remain to reinvest the Reserves in

†Ryerson: *Story of My Life*, p. 225.

‡These figures are taken from a return to be found in the Canadian Archives, Q. 407, Pt. I, pp. 108-13.

the hands of the Crown. Various bills on the subject were introduced and finally the Legislative Council amended one sent to it by the Assembly in such a way as to put complete control of the Clergy Reserves in the hands of the Imperial Parliament. This bill as amended was passed in the Assembly in a thin house by a majority of one. Sir George Arthur and his party had triumphed by a narrow margin. But the royal assent was never given to the bill owing to an objection raised in England that the Upper Canadian Legislature, being a subordinate authority, could not make such a delegation to the Imperial Parliament.

A compromise bill which was devised to meet the approval of the majority of people in Upper Canada was submitted to the House of Assembly in January, 1840, but it was the work not of Sir George Arthur, but of Lord Durham's successor, Mr. Poulett Thomson (Lord Sydenham). It provided that the remainder of the land should be sold and that the annual proceeds of the fund, when realized, be distributed one half to the Church of England and the Presbyterians and one half to the other denominations who wished to share it. This bill was passed in Upper Canada and sent to England where it met its death blow in the House of Lords. The vexatious Clergy Reserves problem still remained unsettled.

In the matter of the Clergy Reserves, Sir George Arthur had shown himself the uncompromising ally of the Family Compact. He was to show it once more in his attitude towards the reunion of the provinces and the introduction of Responsible Government.

The reunion of the provinces was urged by Lord Durham in his Report and was favoured by a large majority of the inhabitants of Upper Canada. It was opposed by the Family Compact, supported as usual by Sir George Arthur. But the feeling for union was so strong that on March 23rd, 1839, three resolutions in favour of the reunion of the provinces were carried by the Upper Canadian Legislature. Four days later, on March 27th, fourteen qualifying resolutions were passed by the Assembly. These resolutions, if embodied in the Act of Union, would have placed the balance of power in the hands of the British population of the united province.

A committee of the Legislative Council was appointed at

the same time to inquire into Lord Durham's Report and to put forward their side of the case. This was very ably done in a document dated May 11th, 1839, and approved by the Legislative Council. In this report on the Report Lord Durham's "great panacea for all political disorders 'Responsible Government'" * was attacked and certain inaccurate statements were challenged. The blame for the recent troubles in Upper Canada was cast entirely upon the Reformers and the question propounded: "Is it because reformers, or a portion of them, can command the sympathies of the United States, and of Lower Canadian rebels, that the internal affairs of a British colony must be conducted so as to please them?"

With these sentiments Sir George Arthur heartily concurred. He was entirely opposed to "Responsible Government" and still feared disaffection in the provinces. During the early months of 1839 the trials of the political prisoners had continued and had attracted much attention on both sides of the border. There was still considerable excitement in the province and riots occurred in some places. In one of these which took place at Stone's Tavern, Percy Township, Northumberland County, on June 5th, 1839, the reformers carried "a red flag on which were written or printed the words, 'Lord Durham and Reform.'" † Incidents such as this increased Sir George Arthur's mistrust of Lord Durham's schemes for the better government of Canada, and on July 2nd we find him writing to the Marquis of Normanby, Lord Glenelg's successor, as follows:

"I have all along informed Her Majesty's Government that it is absurd to think of Upper Canada as containing a whole community of loyalists. There is a considerable section of persons who are disloyal to the core; reform is on their lips, but separation is in their hearts. These men having, for the last two or three years, made a "responsible government" their watchword, are now extravagantly elated because the Earl of Durham has recommended that measure.

"They regard it as an unerring means to get rid of all British connexion, while the Earl of Durham, on the contrary,

*Egerton and Grant: Canadian Constitutional Development, p. 176.

†Parl. papers (Canada), 1840, Pt. II, p. 142.

has recommended it as a measure for cementing the existing bond of union with the mother country."

These few sentences throw great light on Sir George Arthur's attitude on the question of 'Responsible Government.' As usual, the Reformers are annexationists. It was the usual tactics of the dominant party to call them so and to include as disloyal all those who favoured the cause of Reform. Of course Sir George Arthur, from the nature of his position, was supposed to be moderate in his political views, but he does yeoman service for the Family Compact in trying to impress upon the authorities in England that the Reformers were disloyal. It is impossible to state what percentage of the Reformers were actually disloyal, but it must be remembered, as Egerton Ryerson has told us, the great body of the Reformers took no part in MacKenzie's Rebellion except to suppress it. The bulk of moderate opinion in the province sided neither with the annexationists nor with the Family Compact, but readily embraced the suggestions set forth in Lord Durham's Report. With these moderate reformers Sir George Arthur was soon at variance.

In the month of August, 1839, Sir George received a series of resolutions supporting Lord Durham's Report and Responsible Government passed at a meeting of freeholders and inhabitants of the Gore District held on July 27th. This meeting resolved that the House of Assembly did not represent the wishes or sentiments of the province "particularly in its late Report of its committee, purporting to be the Report of the House of Assembly in answer to Lord Durham's Report on the State of the Province." It also resolved "that the Report of the Earl of Durham, in all its material points, has been received by an overwhelming majority of the people of Upper Canada with the most abundant gratification" and "that this meeting is of opinion that a *responsible government*, as recommended in Lord Durham's Report, is the only means of restoring confidence, allaying discontent, or perpetuating the connexion between Great Britain and this colony."‡

All this was wormwood and gall to Sir George Arthur, who hastened to reply to this address. In his answer he at-

‡Parl. paper (Canada), 1840, Pt. II, p. 181.

tacks Responsible Government and states "that the proposed plan would lead to a state of things inconsistent with the relations of this colony, as a dependency of the British Crown." This was a bold statement for the Lieutenant-Governor to make and it was soon to land him into difficulties since the British authorities were prepared to carry out Lord Durham's schemes. Mr. Poulett Thomson was selected as Governor-General and under him Sir George Arthur was once more to act as a subordinate Lieutenant-Governor.*

It was a curious arrangement, since Arthur was known to be opposed to the very scheme of government which Poulett Thomson was being sent out to initiate. But Sir George Arthur was not unwilling to co-operate with the new Governor-General. He met Poulett Thomson at Montreal on October 25th and conferred with him on the subject of Upper Canada. It was decided that the Legislature of that province should be summoned for December 3rd and that Poulett Thomson would visit Upper Canada about the 18th of November. The Governor-General was determined to open the session of the Legislature in person. This determination on his part was largely the outcome of his conversations with Sir George Arthur, who strongly urged upon him the desirability of so doing.

As a result of this meeting between the Governor-General and Lieutenant-Governor, Poulett Thomson was present to open the Legislature on December 3rd. After that date Sir George Arthur's power in Upper Canada became entirely secondary to that of Poulett Thomson. He still acted as Lieutenant-Governor in the absence of the Governor-General but his term of real authority in Upper Canada ended on November 22nd, 1839, when the new Governor-General assumed the government of the upper province.

Sir George Arthur remained in Upper Canada until 1841, when the Act of Union came into force and the two provinces surrendered their separate existence. He then returned to England where his services in Canada were recognized by the bestowal upon him of a baronetcy. In June, 1842, he was appointed Governor of the Bombay Presidency in India, which

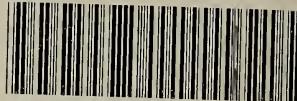
*For a full account of the relations between Poulett Thomson and Sir George Arthur the reader is referred to Shortt, *Sydenham*, pp. 153-162.

office he held until his retirement in 1846. Had his health warranted the acceptance of so difficult a post he might then have become Governor-General of India. After returning to England Sir George Arthur was made a Privy Councillor and was honoured by the University of Oxford with the honorary degree of Doctor of Civil Law. He died on September 19th, 1854.

Sir George Arthur was a true type of the old colonial governor. He was unfortunate in that he was unable to realize that the days of colonial dependency were numbered, and that the future belonged to the advocates of self-government. His long experience as a colonial governor under the old regime, probably told against Arthur in his administration of Upper Canada just as it was of value to him as Governor of Bombay. His support of the Family Compact was as natural and sincere as his mistrust of Responsible Government. Of his uprightness and integrity there could be no doubt. Although his treatment of the political prisoners shows him to have been merciless, on occasion he was known as a gentle and kind man. He tried to do what he considered right but he lacked vision. Throughout his administration in Upper Canada he was attempting to bolster up a dying cause. His one fatal defect was that he could not see that the political future of Canada lay in the proper interpretation and elaboration of the principles laid down in Lord Durham's Report.

WALTER SAGE.

LIBRARY OF CONGRESS



0 017 396 557 6